also include bottled water ready for reconstitution available from a vendor that is specifically intended for reconstitution of media used for aspiration, incubation, transfer, or storage of gametes or embryos for IVF or other assisted reproduction procedures.

(b) *Classification.* Class II (special controls) (mouse embryo assay information, endotoxin testing, sterilization validation, water quality testing, design specifications, labeling requirements, biocompatibility testing, and clinical testing).

§ 884.6180 Reproductive media and supplements.

(a) *Identification.* Reproductive media and supplement are products that are used for assisted reproduction procedures. Media include liquid and powder versions of various substances that come in direct physical contact with human gametes or embryos (including water, acid solutions used to treat gametes or embryos, rinsing solutions, sperm separation media, supplements, or oil used to cover the media) for the purposes of preparation, maintenance, transfer or storage. Supplements are specific reagents added to media to enhance specific properties of the media (e.g., proteins, sera, antibiotics, etc.).

(b) *Classification.* Class II (special controls) (mouse embryo assay information, endotoxin testing, sterilization validation, design specifications, labeling requirements, biocompatibility testing, and clinical testing).

§ 884.6190 Assisted reproductive microscopes and microscope accessories.

(a) *Identification.* Assisted reproduction microscopes and microscope accessories (excluding microscope stage warmers, which are classified under assisted reproduction accessories) are optical instruments used to enlarge images of gametes or embryos. Variations of microscopes and accessories used for these purposes would include phase contrast microscopes, dissecting microscopes and inverted stage microscopes.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

[63 FR 48436, Sept. 10, 1998, as amended at 64 FR 62977, Nov. 18, 1999; 66 FR 38809, July 25, 2001]

§ 884.6200 Assisted reproduction laser system.

(a) *Identification.* The assisted reproduction laser system is a device that images, targets, and controls the power and pulse duration of a laser beam used to ablate a small tangential hole in, or to thin, the zona pellucida of an embryo for assisted hatching or other assisted reproduction procedures.

(b) *Classification.* Class II (special controls). The special control is FDA's guidance document entitled ''Class II Special Controls Guidance Document: Assisted Reproduction Laser Systems.'' See § 884.1(e) for the availability of this guidance document.

[69 FR 77624, Dec. 28, 2004]

PART 886—OPHTHALMIC DEVICES

Subpart A—General Provisions

Sec.

Subpart B—Diagnostic Devices

Subpart C [Reserved]

Subpart D—Prosthetic Devices

Subpart E—Surgical Devices

Subpart F—Therapeutic Devices

AUTHORITY: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

SOURCE: 52 FR 33355, Sept. 2, 1987, unless otherwise noted.

Subpart A—General Provisions

§ 886.1 Scope.

(a) This part sets forth the classification of ophthalmic devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, an ophthalmic device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in one subpart only.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

§ 886.3 Effective dates of requirement for premarket approval.

A device included in this part that is classified into class III (premarket approval) shall not be commercially distributed after the date shown in the regulation classifying the device unless the manufacturer has an approval under section 515 of the act (unless an exemption has been granted under section 520(g)(2) of the act). An approval under section 515 of the act consists of FDA's issuance of an order approving an application for premarket approval (PMA) for the device or declaring completed a product development protocol (PDP) for the device.

(a) Before FDA requires that a device commercially distributed before the enactment date of the amendments, or a device that has been found substantially equivalent to such a device, has an approval under section 515 of the act, FDA must promulgate a regulation under section 515(b) of the act requiring such approval, except as provided in paragraphs (b) and (c) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regulation for a device classified into class III in this part, the device may be commercially distributed without FDA's issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a ''new'' device as defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

(c) A device identified in a regulation in this part that is classified into class III and that is subject to the transitional provisions of section 520(1) of the act is automatically classified by statute into class III and must have an approval under section 515 of the act before being commercially distributed. Accordingly, the regulation for such a class III transitional device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.